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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/039,076	12/31/2001	David Kaufman	KCC4803 (K-C No. 16,436)	9166
321	7590	10/06/2004	EXAMINER	
SENNIGER POWERS LEAVITT AND ROEDEL ONE METROPOLITAN SQUARE 16TH FLOOR ST LOUIS, MO 63102			RHODE JR, ROBERT E	
			ART UNIT	PAPER NUMBER
			3625	

DATE MAILED: 10/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/039,076	Applicant(s) KAUFMAN ET AL. ST	
	Examiner Rob Rhode	Art Unit 3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 24 - 48 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 24 - 48 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Notice of Appeal

In view of the appeal brief filed on 5-19-2004, PROSECUTION IS HEREBY REOPENED. New grounds for rejection are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

Claims 24 - 48 are pending and will be examined.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 24, 25, 28 - 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lemchen (US 6,594,642 B1) in view of "Beauty Company Reflect.com Launches New Skincare Packaging"; PR Newswire; New York; June 26, 2001 (hereafter referred to as "Reflect").

Regarding Claim 24 and related claims 33, 41, 42 and 44, Lemchen teaches a method and system in which a manufacturer produces a plurality of personalized products within a custom package for a consumer, the method comprising the manufacturer:

receiving information from the consumer via a communications network, said information relating to a first option of a first plurality of options of a personalized products feature of the plurality of personalized products (see at least Abstract, Col 2, lines 24 – 50 and Col 3, lines 19 - 39);

providing said information to a production machine linked to the communications network and configured to receive the information provided by the consumer via the communications network, said production machine configured to produce personalized products including any one of the first plurality of options of the personalized products feature (see at least Abstract and Figure 1); and

producing by the production machine the personalized products in the package therefor as desired by the consumer and in accordance with the information received from the consumer such that the produced personalized products have the first option (see at least Col 3, lines 19 – 49 and Figure 1). Please note that Lemchen does not specifically disclose custom tissue or absorbent paper. However, Lemchen does disclose that the method and system applies to limitless variety of personal products as well as disclosing personalized products such as stationary (see claim 16). In that regard, it would have been obvious to one of ordinary skill to have provided the method and system of Lemchen with custom or absorbent paper products. Thereby, the method and

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system would have added this product to the limitless variety, which will increase the kinds as well as expand the limitless number already available of these offered products, which increases the usefulness and therefore potential sales.

While Lemchen does disclose selecting a type of packaging, the reference does not specifically disclose and teach a method and system for relating to a second graphical option of a second plurality of graphical options of a package feature of the package; and configured to produce custom packages including any one of the second plurality of options of the package feature; and the produced package has the second graphical option.

On the other hand and in the same area of on line buying and producing of custom products as well as a custom packaging of these products, Reflect teaches a method and system for relating to a second graphical option of a second plurality of graphical options of a package feature of the package; and configured to produce custom packages including any one of the second plurality of options of the package feature; and the produced package has the second graphical option (Page 1).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have provided the method and system of Lemchen with the method and system of Reflect to have enabled a method and system in which a manufacturer produces a plurality of personalized products within a custom package for a consumer, the method

comprising the manufacturer: receiving information from the consumer via a communications network, said information relating to a first option of a first plurality of options of a personalized products feature of the plurality of personalized products and relating to a second graphical option of a second plurality of graphical options of a package feature of the package; providing said information to a production machine linked to the communications network and configured to receive the information provided by the consumer via the communications network, said production machine configured to produce personalized products including any one of the first plurality of options of the personalized products feature and configured to produce custom packages including any one of the second plurality of options of the package feature; and producing by the production machine the personalized products in the package therefor as desired by the consumer and in accordance with the information received from the consumer such that the produced personalized products have the first option and the produced package has the second graphical option – in order to allow a consumer to select as well as have produced a custom product that includes custom packaging. Lemchen discloses a method and system in which a manufacturer produces a plurality of personalized products within a custom package for a consumer, the method comprising the manufacturer: receiving information from the consumer via a communications network, said information relating to a first option of a first plurality of options of a personalized products feature of the plurality of personalized products; providing said information to a production machine linked to the communications network and configured to receive the information provided by the consumer via the

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communications network, said production machine configured to produce personalized products including any one of the first plurality of options of the personalized products feature; and producing by the production machine the personalized products in the package therefor as desired by the consumer and in accordance with the information received from the consumer such that the produced personalized products have the first option (Abstract and Figure 1). Reflect discloses a method and system for relating to a second graphical option of a second plurality of graphical options of a package feature of the package; and configured to produce custom packages including any one of the second plurality of options of the package feature; and the produced package has the second graphical option (Page 1). Therefore, one of ordinary skill in the art would have been motivated to extend the method and system of Lemchen with a method and system for relating to a second graphical option of a second plurality of graphical options of a package feature of the package; and configured to produce custom packages including any one of the second plurality of options of the package feature; and the produced package has the second graphical option. This will in turn save the consumer time and cost associated with on site shopping at a store or mall, which will increase the probability that they will be more satisfied. The increased satisfaction will increase the probability that they will shop at the site in the future.

Regarding Claim 25, Lemchen teaches a method wherein the communications network is a computer network, and wherein receiving includes receiving said information from the consumer over the computer network via a computer server (Figure 1).

Regarding claim 45 and related claims 46 – 48, Reflect teaches a method and system wherein the product feature is product graphic design and wherein the product feature is packaging graphic design (Page 1).

Claims 26 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Lemchen and Reflect as applied to claim 24 above, and further in view of Froseth (US 2002/0004749 A1).

The combination of Lemchen and Reflect substantially teach the applicant's invention.

However, the combination does not specifically disclose and teach a method and system wherein the communications network is a telephony network, and wherein receiving includes receiving said information from the consumer over the telephony network via a telephone attendant and wherein said telephone attendant is an automated attendant.

On the other hand and in the same area of online purchasing, producing of customized products with customized packaging and regarding Claim 26, Froseth teaches method wherein the communications network is a telephony network, and wherein receiving includes receiving said information from the consumer over the telephony network via a telephone attendant (Para 0086) as well as (claim 27) wherein said telephone attendant is an automated attendant (Para 0086).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have provided the combination of Lemchen and Reflect with a method wherein the communications network is a telephony network, and wherein receiving includes receiving said information from the consumer over the telephony network via a telephone attendant and wherein said telephone attendant is an automated attendant – in order to have other ordering channels for consumers. The combination of Lemchen and Reflect disclose a method and system in which a manufacturer produces a plurality of personalized products within a custom package for a consumer, the method comprising the manufacturer: receiving information from the consumer via a communications network, said information relating to a first option of a first plurality of options of a personalized products feature of the plurality of personalized products and relating to a second graphical option of a second plurality of graphical options of a package feature of the package; providing said information to a production machine linked to the communications network and configured to receive the information provided by the consumer via the communications network, said production machine configured to produce personalized products including any one of the first plurality of options of the personalized products feature and configured to produce custom packages including any one of the second plurality of options of the package feature; and producing by the production machine the personalized products in the package therefor as desired by the consumer and in accordance with the information received from the consumer such that the produced personalized products have the first option

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and the produced package has the second graphical option. Froseth discloses a method wherein the communications network is a telephony network, and wherein receiving includes receiving said information from the consumer over the telephony network via a telephone attendant and wherein said telephone attendant is an automated attendant (Para 0086). In this manner, the consumer has the option of ordering by telephone, which is more attractive to non-computer skilled individuals.

Claim 43 is rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Lemchen (US 6,594,642 B1) and Reflect, and further in view of Reflect.com web pages captured via the WayBackMachine (archive.org) and dated April 18, 2001 (hereafter referred to as "Reflect.com")

The combination of Lemchen and Reflect substantially disclose and teach the applicant's invention.

However, the combination does not specifically disclose and teach a system with a production machine including a fragancer for applying scent.

On the other hand and in the same area of customizing personal products, Reflect.com teaches a system with a production machine including a fragancer for applying scent (Page 8).

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It would have been obvious to one of ordinary skill in the art at the time of the invention to have provided the combination of Lemchen and Reflect with the system of Reflect.com to have enabled a method with a production machine including a fragrancier for applying scent. The combination of Lemchen and Reflect disclose a system with a network interface including a plurality of first option features of an absorbent paper product and a second graphical option of graphical options; a production machine linked to the communication network to produce the custom absorbent paper products including any one of the plurality of first options of the product feature and including the second options of the package feature as well as computer server operatively connected to the production machine and operatively configured to receive information from the consumer and provide the information to the production machine. Reflect.com discloses a system with a production machine including a fragrancier for applying scent (Page 8). Therefore, one of ordinary skill in the art would have been motivated to extend the combination of Lemchen and Reflect with a system including production machine including a fragrancier for applying scent.

Response to Arguments

Applicant's arguments with respect to claims 24 - 48 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art is Henson (US 6,167,383), Phillips (US 6,186,553 B1), Eze (US 2002/0103714 A1) and "Proctor & Gamble's online beauty business blossoms"; CC News; Yarmouth; Jul 2001, which all address online customizing and purchasing of products.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Rob Rhode** whose telephone number is **(703) 305-8230**. The examiner can normally be reached Monday thru Friday 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Jeff Smith** can be reached on **(703) 308-3588**.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **Receptionist** whose telephone number is **(703) 308-1113**.

Any response to this action should be mailed to:

Commissioner for Patents

P.O. Box 1450

Alexandria, Va. 22313-1450

or faxed to:

(703) 872-9306 [Official communications; including

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After Final communications labeled


"Box AF"]

(703) 746-7418 [Informal/Draft communications, labeled

"PROPOSED" or "DRAFT"]

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington, VA, 7th floor receptionist.

RER


Jeffrey A. Smith
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